

April 25, 2023

Dear Chief FOIA Officers Council,

I am writing on behalf of my organization, the Environmental Data and Governance Initiative (EDGI) with regard to the plans to decommission FOIAOnline and launch independent FOIA case management systems at different agencies.

Since 2012, FOIAOnline has served as a critical transparency tool for the federal government. FOIAOnline provides substantial advancements in the public's access to information received through FOIA, which in turn supports agency FOIA efficiencies and ultimately compliance. Two FOIAOnline features in particular have been essential for public research in advance of filing FOIA requests:

1. the ability to search records from each agency previously obtained by any and every requester, going back to when said agency first began using FOIAOnline to process its FOIA requests.
2. the ability to search previously obtained records not just from one but from multiple agencies, going back to when FOIAOnline began.

It is of utmost importance that these features be retained and improved in any federal FOIA portal.

We urge the CFO Council to consider the federal efficiencies that can be gleaned by providing browsing and powerful search functioning in agency or government-wide FOIA portals. The better the public is able to browse and search material that has already been laboriously collected, collated, and disseminated by agency FOIA officers, the fewer duplicative requests will be filed. Moreover, through a more effective review of previously disseminated records, the public will be able to file more specific requests, substantially improving efficiencies in terms of producing more narrow requests and reducing time-consuming clarification communications. The public should continue to view requests and records from multiple agencies through the same portal in order to effectively research multi-institutional requests. Providing the public access to these public records is not only a win for transparency, informed citizenry, and democracy; it is also a win for federal efficiency and compliance.

Preserving and improving the ability of agencies and the public to work on inter-agency and multi-institutional requests is also of critical importance. Practitioners know that making FOIA requests at the intersection of agencies, such as regarding questions of jurisdiction or authority, or collaboration across agencies, are often challenging. It is important to address the underlying records challenges and ensure agencies can effectively complete multi-institutional requests, even and especially if agencies move to separate case management systems.

Perhaps even more fundamentally than the issues raised above, we are concerned about what the phasing out of FOIAOnline implies about a federal commitment to *keep* successfully disseminated documents available to a broader public. Will formerly participating agencies be obligated to repost all the documents previously made available via FOIAonline within their new single-agency FOIA portals? Or, will the decommissioning of FOIAOnline mean that the federal government is renegeing on an obligation to keep these records public? If this decision entails returning storage of all these documents released 2012 to 2023 to be accessible only to those within the agencies, that constitutes a retreat from the spirit if not the letter of Freedom of Information laws. Even if another entity were to post a public archive of all these documents, that would effectively entail a privatization of the federal government's digital archive—with remarkably little, if any, public scrutiny or discussion for such a far-reaching decision.

To maintain the essential FOIA services uniquely provided by FOIAOnline and improve the effectiveness of online FOIA case management systems, we recommend the following:

1. **Maintain broad public access to records** that have already been disseminated. Mandate each agency to provide a means to search records that agency has previously disseminated to any person or organization through a FOIA request.
2. **Enhance search functionality** to support the public's ability to review already disseminated records. The current search functioning is impaired. For example, searching by "Requester Organization" does not yield results when searching for organizations whom I know have submitted FOIA requests, such as my own. The "Keyword" search also does not appear to work, and it is unclear how keywords are ascribed to a request. For example, I have searched for key terms included in my own FOIA requests such as "cumulative impacts," "TSCA," and "Toxic Substances Control Act," which all return zero results.
3. **Develop a browser-based viewing system and legend.** It is extremely inefficient and imposes a substantial accessibility hurdle that could disproportionately impact low-income persons to require people to download large pdfs with obscure names in order to get a sense of the content of the file. There should be a way for all people to view documents without downloading them to their devices. Moreover, there should be a legend briefly denoting what is contained in each file, such as "email correspondence" or "strategic planning documents." Lowering the threshold for people to actually receive and review information will make the entire FOIA enterprise more efficient and effective for agencies and the public alike.

We appreciate your attention to this matter to ensure that the planned decommissioning of FOIAOnline in September 2023 does not negatively impact the public's ability to obtain information or agencies' ability to comply with the Freedom of Information Act. Further, we hope this body will utilize this planned transition as an opportunity to guide more effective FOIA practices.



We at the Environmental Data and Governance Initiative would welcome the opportunity to speak further with the Chief FOIA Officers Council and individual members of the council as well.

Sincerely,

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Environmental Data and Governance Initiative